

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IRA FINGLES

v.

CONTINENTAL CASUALTY COMPANY

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CIVIL ACTION
NO. 08-05943

ORDER

AND NOW, this 28th day of April, 2010, in consideration of defendant's motion to dismiss, plaintiff's response and defendant's reply, it is HEREBY ORDERED that the motion to dismiss is GRANTED IN PART and DENIED IN PART as follows:

1. The motion is GRANTED with respect to count III and count III is DISMISSED;
and
2. The motion is GRANTED with respect to count V insofar as plaintiff alleges fraudulent conduct on the part of Continental and that part of count V is DISMISSED with leave to amend within twenty (20) days of the date of this Order; and
3. The motion is DENIED with respect to count V insofar as plaintiff alleges deceptive conduct on the part of Continental.

It is FURTHER ORDERED that the parties agree to a schedule for discovery and submit such schedule to the Court for approval. If the parties believe a settlement conference before Judge Restrepo would be productive, they should contact my chambers (215-597-2750).

/s/ THOMAS N. O'NEILL, JR.
THOMAS N. O'NEILL, JR., J.